

P-421/CI-92-1381 ORDER TERMINATING INVESTIGATION AND DEFERRING
ISSUES TO FUTURE PROCEEDINGS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Tom Burton	Commissioner
Marshall Johnson	Commissioner
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner

In the Matter of a Commission
Initiated Investigation into
USWC Inc.'s Service Installation
Intervals

ISSUE DATE: December 15, 1993

DOCKET NO. P-421/CI-92-1381

ORDER TERMINATING INVESTIGATION
AND DEFERRING ISSUES TO FUTURE
PROCEEDINGS

PROCEDURAL HISTORY

On July 22, 1992, the Residential Utilities Division of the Office of the Attorney General (RUD-OAG) notified the Commission's Consumer Affairs Office (CAO) that it had received a complaint from a customer of U S West Communications, Inc. (USWC or the Company) alleging unreasonable delay in installing new service and that the Company had 700 new service installations pending.

On July 22, 1992, the CAO contacted USWC and was informed that there were 415 orders for new service that had not been installed within 30 days after the day the applicant desired service. Such orders are referred to in the industry and by Commission rule as "held orders". Minn. Rules, part 7810.2800. The CAO requested that USWC forward a list identifying the held orders and the reasons for the delay. The Company advised the CAO that the list would be submitted on July 27, 1992.

On August 6, 1992, USWC submitted a list of 126 held orders.

On August 21, 1992, the CAO requested an updated status report regarding the held orders reported on August 6, 1992, requested again a narrative reason for each held order and an explanation of the coded reasons supplied by the Company on August 6, 1992.

On September 23, 1992, the CAO restated its August 21, 1992 request that USWC provide an updated status report regarding the held orders reported on August 6, 1992, a narrative reason for each held order and an explanation of the codes supplied by the Company on August 6, 1992.

On September 28, 1992, USWC submitted a letter to the CAO which summarized the general reasons for the installation delays.

Between July 2, 1992 and September 29, 1992, the CAO received complaints of unduly long new service installation delays from 23 of USWC's customers.

On December 18, 1992, the Commission issued its ORDER INITIATING INVESTIGATION in this matter. In its Order the Commission required USWC to provide certain information pursuant to established timelines and to cooperate with Commission Staff throughout the investigation in developing the facts and issues pertinent to this investigation.

On February 16, 1993, initial comments were filed by USWC, the RUD-OAG, and the Department.

On March 15, 1993, USWC filed reply comments and on March 18, 1993, the Department and the RUD-OAG filed their reply comments.

On April 27, 1993, USWC submitted clarifying comments in response to questions raised by the Department and the RUD-OAG in their March 18, 1993 reply comments.

On November 30, 1993, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

Complaints forwarded to the Commission's Consumer Affairs Office by the RUD-OAG and those received directly by the CAO raised a concern whether the Company was maintaining its pre-Incentive Plan quality of service standard for installation of residential and business service as required by the Incentive Plan Statute and the Commission's June 7, 1990 Incentive Plan Order. The number of complaints received also raised the question whether the Company was meeting the installation timing requirement of Minn. Rules, part 7810.2800, i.e. that the Company must keep ninety percent of the commitments it has made to customers as to the date of installation of regular service orders, excepting customer-caused delays and acts of God.

In initiating this investigation, the Commission noted that the increase in customer complaints regarding installation of service delays had not been explained to the Commission's satisfaction. Following its investigation into this matter, the Commission makes the following findings:

1. USWC Has Complied With the Installation Standard Established in Minn. Rules, part 7810.2800

Minn. Rules, Part 7810.2800 requires that except for customer caused delays and acts of God 90 percent of the utility's commitments to customers as to the date of installation of regular service orders must be met. The rule does not prescribe what level of held orders (orders not filled within 30 days after the date the applicant desires service) is acceptable, nor does it set a standard for timely completion of orders once they become held. As to held orders, the rule simply requires the utility to record certain information regarding each instance.¹

The Commission finds that USWC is currently meeting the rule's 90 percent installation requirement and is likely to continue to do so. In 1992 USWC installed 1,062,499 orders for regular service only 1,111 of which were classified as held. These numbers reflect a 99.9 percent rate of installing service within 30 days of the date the applicant desired service.²

2. The Company's Incentive Regulation Plan Has Established No Installation Standard for New Service

In its Order approving USWC's Incentive Regulation Plan, the Commission indicated that the Company's current standard of two working days for residential installations and five working days for business installations would govern the Company's operations under the Incentive Regulation Plan.³ This 2 day/5 day standard, however, applies only to standard installation orders which do not require the laying of cable or other construction activity. As such, the standard does not apply to the delayed installations which were subject to the complaints that gave rise to this investigation. The installations of concern in this matter are primarily installations of new service or service upgrades requiring capital expenditures on the part of the Company and, perhaps, expenditures by third parties.

¹ As to held orders (orders not filled within 30 days after the applicant desires service), the rule requires the utility to keep a record by exchanges showing the name and address of each applicant for service, the date of application, date of service desired, the class and grade of service applied for, together with the reason for the inability to provide the new service or higher grade to the applicant. Minn. Rules, Part 7810.2800.

² Since the reference date used by the Company here (the date the applicant desires services) is earlier than the date used in the rule to begin the 30 day period (the date committed to by the utility), the level of compliance with the rule's standard may be even higher.

³ In the Matter of Northwestern Bell Telephone Company's, d/b/a U S West Communications, Proposed Incentive Regulation Plan, Docket No. P-421/EI-89-860, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER (June 7, 1990).

3. It Cannot Be Determined on the Basis of This Record Whether USWC Has Maintained its Pre-Incentive Plan Quality of Service With Respect to Held Orders

The statute authorizing incentive plan regulation of utilities indicates that during the term of an incentive plan the telephone company must maintain or improve its pre-plan quality of service. Minn. Stat. § 237.625, subd. 1 (1992). In approving an incentive plan for USWC in Orders issued June 7, 1990 and September 17, 1990, the Commission required USWC to provide on-going assurances that it was maintaining pre-plan quality of service.

Unfortunately, the record does not provide a basis for evaluating whether the level of held orders has increased or decreased during the time Incentive Regulation has been in effect. USWC has not retained records on the number of held orders prior to 1991. Accordingly, a pre- and post-Incentive Plan comparative analysis is not possible.

4. It Would Be Inappropriate to Define a New Reasonableness Standard Regarding New Service Installation Delays in the Context of this Proceeding

In its December 18, 1992 Order initiating this investigation, the Commission stated that if the 2-day/5-day standard does not apply to the service requests of concern in this matter (new service installations), the Company's pre-Incentive Plan rate of meeting those kinds of Orders would be the standard the Company must meet under Incentive Plan regulation. The Commission further noted that if the Company had no articulated timing standard for such installations, a reasonableness standard would apply to such service requests. ORDER INITIATING INVESTIGATION at page 6.

In light of the findings in this Order 1) that the 2-day/5-day standard does not apply to new service requests and 2) that the Company's history as known in the record provides no standard for such service requests, the Commission is directed towards a reasonableness standard.

What is a reasonable time for completing held orders for new installation and does USWC meet that standard? The representatives of the public declined to offer a definition of what was reasonable. The RUD-OAG concluded that one of the main questions unresolved in this investigation is whether the recent number of held orders is reasonably necessary. The Department stated that it was hard pressed to recommend a set time frame as the appropriate standard for completing held orders. The Department stated that any new standard should be applicable to all local exchange carriers and be subject to debate through the rulemaking process.

For its part, the Company sought to be rid of this issue entirely. It argued that the current rule (Minn. Rules, Part 7810.2800) is sufficient to control the number of held orders and that any problem that it may have had with held orders has been long since resolved. The Company asserted that the increase in held order complaints that led to this investigation could be attributed to a short-lived cut that it made in its construction program in the third quarter of 1991. The Company stated that in that quarter it had reduced its distribution facility budget by 23 percent but quickly restored that amount and continued to adequately fund that activity to date. The Company stated that in 1991, the year in which held order complaints increased substantially, it invested approximately \$88,030,000 in outside plant in Minnesota compared to \$99,600,000 investment in outside plant in 1992. In short, in the Company increased its outside plant construction dollars by 13 percent in 1992 over 1991. As a result, the number of the Company's held orders sharply declined to 36 at the end of 1992. In light of these developments, the Company suggests, the Company's held orders situation is a non-problem.

COMMISSION ACTION

The Commission finds that there is reason for continued concern in this area. In the absence of a clear installation standard for new service installations and a showing of solid compliance with that standard by USWC, the Commission cannot be assured that all the installation delays experienced under incentive regulation by some applicants for new service were/are within the range of reasonableness and that incentive regulation may not have contributed to those delays. At the same time, the record does not provide a basis to articulate a specific reasonable standard for this area.

In these circumstances, the Commission will continue its consideration of these and related issues, but not in this docket. The Commission will close this investigation docket and take up these issues in proceedings which evaluate USWC's current Incentive Regulation Plan and which develop a successor regulatory plan.⁴ To assist deliberation of these matters, the Commission will require USWC to continue to compile and file quarterly reports as outlined in the Commission's December 18, 1992 Order Initiating Investigation. The Company should continue to file these reports until the expiration of the current incentive regulation plan.

⁴ In the Matter of the Evaluation of U S West Communications, Inc.'s Incentive Regulation Plan and Future Regulatory Structures, Docket No. P-421/EI-89-860, ORDER ESTABLISHING PROCESS FOR EVALUATING THE CURRENT INCENTIVE REGULATORY PLAN OF U S WEST COMMUNICATIONS, INC. AND POSSIBLE REGULATORY STRUCTURES FOR FUTURE CONSIDERATION (June 29, 1993).

Other issues identified in this docket will also carry over to these future dockets: 1) USWC's handling of deposits on held orders, 2) USWC's responsibility to disclose to the customer when completion of a service order requires new facilities, 3) USWC's compliance with the recordkeeping requirements of Minn. Rules, part 7810.2800 with respect to held orders; and 4) USWC's ability and willingness to respond in a timely fashion to complaints (Minn. Rules, part 7810.11, subp. 2) and to the Commission's Consumer Affairs Office (Minn. Rules, part 7810.1100, subp.3) in timely fashion as required by the rule.

ORDER

1. This investigation is terminated. Docket No. P-421/CI-92-1381 is closed. The issues raised in the course of this investigation and not resolved in this Order are deferred for development and consideration in future proceedings which evaluate USWC's current Incentive Regulation Plan and which develop a successor regulatory plan.
2. Until the expiration of the current incentive regulation plan, USWC shall continue to compile and file quarterly reports as outlined in the Commission's December 18, 1992 Order Initiating Investigation.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)